TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 171.

ELEANOR A. H. MAGRUDER, PLAINTIFF IN ERROR,

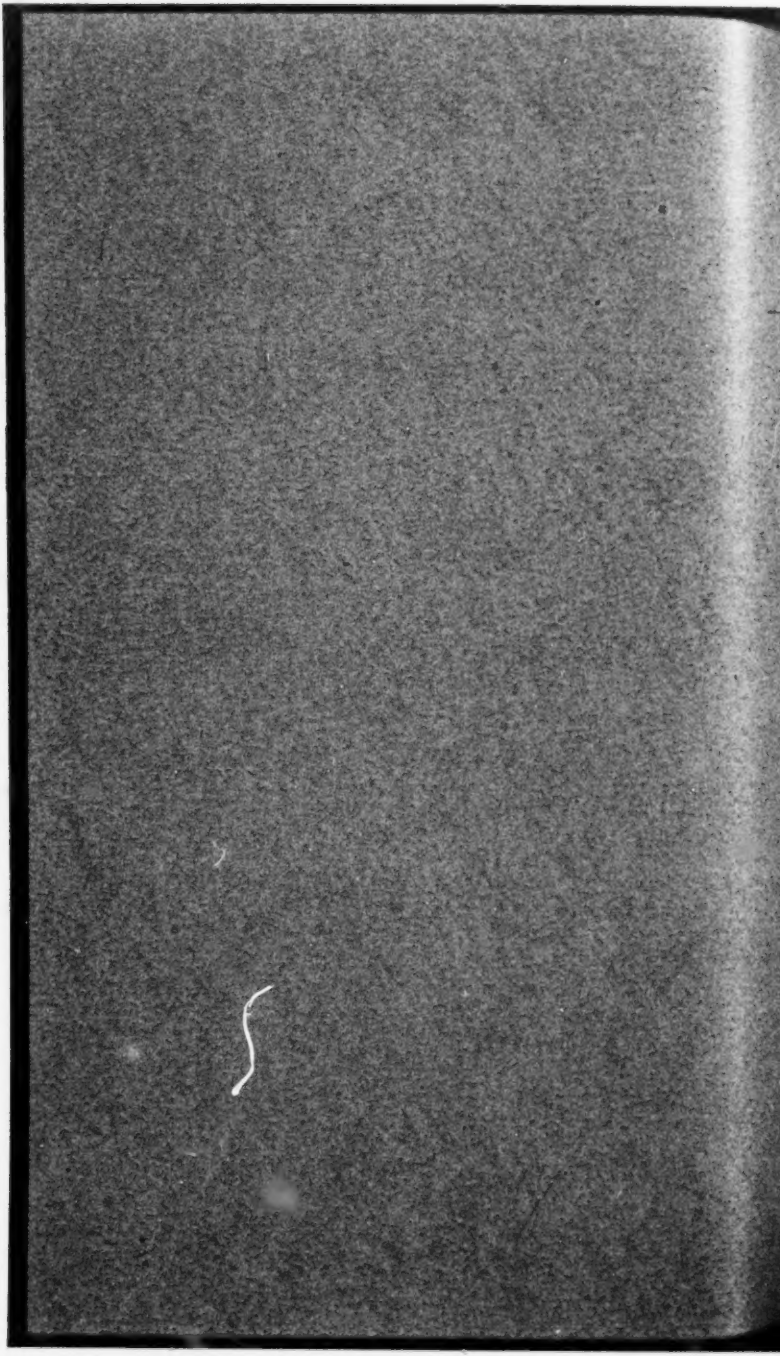
vs.

GEORGE A. ARMES, JACKSON H. RALSTON, FREDERICK L. SIDDONS, HARVEY T. WINFIELD, AND ALBERT A. WILSON.

IN ERROR TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED DECEMBER 20, 1899.

(17,590.)



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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JULY 28, 1900.

In the Court of Appeals of the District of Columbia

ELEANOR A. H. MAGRUDER, Appellant,
vs.
GEORGE A. ARMES ET AL. } No. 917.

a Supreme Court of the District of Columbia.

ELEANOR A. H. MAGRUDER, Plaintiff,
vs.
GEORGE A. ARMES ET AL., Defendants. } No. 43039. At Law.

UNITED STATES OF AMERICA,
District of Columbia, } *ss:*

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Declaration, &c.*

Filed May 8, 1899.

In the Supreme Court of the District of Columbia, the 8th Day of May, 1899.

ELEANOR A. H. MAGRUDER, Plaintiff,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, Defendants. } At Law. No. 43039.

The plaintiff sues the defendants for that the said George A. Armes, as plaintiff in a certain suit at law, numbered 39058, pending in said court, with the assistance of said Harvey T. Winfield, who appeared as attorney of record for plaintiff in such case, and of said Jackson H. Ralston and Frederick L. Siddons as counsel, had issued a writ of *fieri facias* in said case against this plaintiff and George C. W. Magruder, her husband, which writ was issued 19th day of February, A. D. 1896, and was directed to the marshal for said District, in which office said Albert A. Wilson was acting at the time, and said Albert A. Wilson, in seeking to enforce said writ, on or about the 2d day of March, 1896, seized and levied upon the interests of both plaintiff and her husband in and to a valuable lot

of ground, improved by an old building, said lot being lettered as lot K, in James Crutchett's subdivision of lots in square numbered 755, in Washington city, in said District. Said lot was the sole and separate estate at law in fee of said plaintiff, she being a
2 married woman, residing in said District, and said place was of great value, to wit, of the value of eighteen hundred dollars, and after being so seized was held by said marshal until plaintiff was compelled, to prevent sale thereof, to pay the demands made upon her under said writ. Said writ was to the following effect, to wit:

In the Supreme Court of the District of Columbia.

GEORGE A. ARMES, Plaintiff,
vs.
ELLANORE A. H. MAGRUDER and Geo. C. W. Magruder, Surety, Defendant. } No. 39058.

The President of the United States to the marshal for said District, Greeting:

You are hereby commanded that of the goods and chattels, lands and tenements, of the defendant and Geo. C. W. Magruder, surety, you cause to be made $6.25, with interest from Feb. 13, 1896, which the plaintiff on the 13th day of February, 1896, by the judgment of said court in the above-entitled cause, recovered against said defendant and surety for money found payable to said plaintiff, and $22.70 for costs and charges about said suit expended, as appears of record, and return this writ into the clerk's office of said court within 60 days so endorsed as to show when and how you have executed the same.

Witness the Honorable Edward F. Bingham, chief justice of said court, the 19th day of February, A. D. 1896.

{ Seal of the Supreme Court of the District of Columbia Here Imprinted. }

JOHN R. YOUNG, *Clerk*,
By —— ——, *Assistant Clerk.*

3 Plaintiff further avers that said writ was illegal and was void on its face because it was not made leviable only out of the sole and separate estate of said plaintiff — made no allowances for any of the exemptions from execution for debt allowed by law; furthermore, said writ called for interest when the judgment and verdict in — case gave none, and charged in the costs twenty dollars for said Armes and his attorney, which — not allowed by law. Said writ was issued and acted under for the wilful purpose of oppressing this plaintiff and of compelling this plaintiff to pay illegal charges and to enforce a judgment against plaintiff in favor of said Armes in said lawsuit No. 39058, which this plaintiff alleges was unauthorized by law and beyond the jurisdiction of said court to render and void. Said judgment was rendered upon an alleged charge by law of $1.25 a day to said Armes for attending said court,

as alleged, as a witness in a certain suit at law, No. 30689, for this plaintiff, but was without law or merit. Said judgment in No. 39058, law case, was entered on the 13th day of February, 1896, at the circuit court No. 1 term of said supreme court and was to the following effect, to wit:

GEORGE A. ARMES, Plaintiff, Appellee,
v.
ELLANORE A. H. MAGRUDER, Defendant, Appellant. } At Law. No. 39058.

Comes here now the plaintiff, by his attorney, and prays judgment on the verdict rendered in this case on the 7th instant, which is granted. Therefore it is considered that the plaintiff recover against said defendant and George C. W. Magruder, her surety, six
4 dollars and twenty-five cents ($6.25), being the money payable by them to the plaintiff by reason of the premises, together with the costs of suit, to be taxed by the clerk, and have execution thereof.

Plaintiff herein, Eleanor A. H. Magruder, alleges said judgment is a common-law judgment on an alleged implied contract against her, she being a married woman then as now, and said judgment has no restriction in recovery or for execution to her sole and separate estate and was beyond the jurisdiction of said court and term to render and was and is legally void, and said judgment could not be entered for a larger fee to the plaintiff therein as a witness than the law authorized in such a case.

And plaintiff further alleges said judgment was also void as to plaintiff because it was void as to George C. W. Magruder, named as surety and joined with her therein, he not being a party to the case, but judgment being also entered against him because he had signed with this plaintiff a paper called an undertaking before the justice of the peace from whom said case was brought by appeal by this plaintiff, she being obliged to execute such alleged undertaking to get her said appeal allowed; but said alleged undertaking had no promissee or obligee named therein, required appellant and surety to submit to a joint simultaneous judgment without any previous process as to the surety, and was more than was authorized by law. Said George C. W. Magruder had no process served on him at all, and when said judgment was attempted to be executed against him by said writ of *fieri facias* he united with plaintiff in trying to appeal from the order of said court refusing to quash said writ.

This plaintiff and her husband had a right to take and perfect an appeal from such a judgment at any time within
5 twenty days, exclusive of Sundays, during which time no execution could issue; but said defendants hereto, intending to oppress said plaintiff and to disregard her legal and just rights, sued out said *fieri facias*, as aforesaid, in six days after said judgment, and in eleven days thereafter seized and levied upon her said lot of ground, as aforesaid, and, being unable to terrify their demands out of plaintiff, said Albert A. Wilson, at the instance of said

other defendants, commenced advertising for sale all the interest of plaintiff and her said husband in said premises by an ordinary marshal's sale advertisement, in ordinary type, once a week in a single newspaper published in said city of Washington. By this advertisement said defendants endeavored to sell such rights as plaintiff's husband had as tenant by the curtesy in said premises, which selling was prohibited by law.

Thereafter, on the 23rd April, 1896, plaintiff moved in writing, with reasons attached, in said court to quash said execution, levy, and other proceedings thereunder and duly gave notice thereof to said defendants and full notice of said grounds, and again notified defendants of the attempts of said George A. Armes to defraud this plaintiff by unfounded claims for witness fees, and that a proper motion had been filed 24 January, 1896, in said case No. 30689, at law, to stop such attempts, which last motion plaintiff desired to have heard with the trial of said case No. 39058, in circuit court term No. 2 of said supreme court, but was refused; but said defendants, on a day of which plaintiff had no notice and when she was not present, had said motion to quash overruled by said court on 6th May, 1896, from which final order both plaintiff and her husband duly entered an appeal on
6 8 May, 1896, to the Court of Appeals of said District; but said defendants persevered under said levy and seizure in the attempt to sell and thereby to greatly sacrifice plaintiff's said lot K, and had appointed such sale for 10 o'clock a. m. in the morning of May 9th, 1896, and would not allow said sale to be put off so as to allow said plaintiff and husband to perfect their said appeal; and to prevent such sale said marshal, acting for all said defendants, demanded an illegal and outrageous sum of money of plaintiff, to wit, the sum of eighty-nine dollars and 94 cents, in which sum, in addition to the other sums herein named as claimed by said Armes, was included a charge of fifty dollars and more for advertising, as aforesaid, said place for sale, whereas said advertising was not legally and actually worth more than about one-third of the sum demanded, to wit, $17.05; but this plaintiff, under compulsion and stress of said seizure and holding and threatened sale and sacrifice of her said property and under protest against such proceedings as invalid, paid said sum of $89.94 to said marshal just before the time of sale, and so saved her property. No part of said $89.94 has ever been returned to plaintiff, but defendants, on 23rd May, 1896, after said payment and after said Armes had been duly cited to appear in said Court of Appeals at an unexpected time and when plaintiff was not present, prevented her from perfecting her said appeal by causing said circuit court term No. 1 to refuse the approval of the appeal bond necessary in the case given by her and her husband in valid shape, with good surety therein and properly presented to said court on 22d May, 1896, and the attempts of said George A. Armes to fraudulently obtain witness fees from this plaintiff
7 were not finally ended in said supreme court until the 5th day of March, 1898.

Wherefore plaintiff claims she has been greatly and unjustly

injured and harrassed in the enjoyment of her lawful rights and of her property by the said illegal and spiteful proceedings and acts, and has been damaged to a great amount, to wit, to the amount of six thousand dollars, which sum she claims herein, besides costs.

(Signed) J. J. WATERS,
Attorney for Plaintiff.

Notice to Plead.

The defendants are to plead hereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the day of the service hereof; otherwise judgment.

J. J. WATERS,
Attorney for Plaintiff.

8 *Demurrer.*

Filed May 9, 1899.

In the Supreme Court of the District of Columbia.

ELEANOR A. H. MAGRUDER
vs.
GEORGE A. ARMES. } Law. No. 43039.

The joint and several demurrer of the defendants, George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson.

The defendants and each of them say that the declaration is bad in substance.

RALSTON & SIDDONS,
Defendants' Attorney-.

Upon the argument of the foregoing demurrer the following matters of law, among others, will be submitted:

1. The declaration fails to state any case cognizable at law.
2. The declaration alleges grievances all of which, if existent, could have been passed upon or were passed upon in the proceeding referred to in said declaration.
3. The declaration shows upon its face that the various alleged grievances complained of were simply steps in the orderly conduct of a law case and not reviewable in such an action as is now brought.
4. The declaration fails to state any legal injury whatever.

9 5. The declaration fails to state any case of trespass or trespass on the case.

RALSTON & SIDDONS,
Defendants' Attorney-.

J. J. Waters, Esq., plaintiff's attorney:

You will please take notice that on May 12th, at the opening of court, or as soon thereafter as we may be heard, in circuit court number one, we will call up the foregoing demurrer.

RALSTON & SIDDONS.

May 9, '99.

Supreme Court of the District of Columbia.

FRIDAY, *May* 26, 1899.

Session resumed pursuant to adjournment, Chief Justice Bingham presiding.

* * * * * * *

ELEANOR A. H. MAGRUDER, Pl'ff,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, Frederick L. Siddons, Harvey T. Wingfield, and Albert A. Wilson, Def'ts. } At Law. No. 43039.

This cause coming on to be heard upon the demurrer of the defendants to the declaration of the plaintiff, and the same having been heard, it is considered that said demurrer be, and is hereby, sustained. Therefore it is considered that the plaintiff take nothing by her suit, and that the defendants go thereof without day and recover against the plaintiff their costs of defense, to be taxed by the clerk, and have execution thereof against the plaintiff's sole and separate estate.

Appeal noted to the Court of Appeals by the plaintiff, and the penalty of the bond on appeal is fixed at $100.00.

(Inserted in record by direction of attorney for appellant.)

Notice of Presentation of Appeal Bond for Approval, &c.

Filed Jun- 9, 1899.

In the Supreme Court of the District of Columbia.

ELEANOR A. H. MAGRUDER, Plaintiff,
vs.
GEORGE A. ARMES ET AL., Defendants. } No. 43039. At Law.

To Messrs. Ralston & Siddons, att'ys for defendants:

Please take notice that on Friday, 9th June, 1899, at the opening of circuit court term No. 1 of said supreme court, or as soon thereafter as we can be heard, we will present for approval by the court the appeal bond by Mrs. Magruder, appellant, in her appeal in said case to the Court of Appeals of said District, with a friend as surety. Name and address of proposed surety: Miss Annie P. Waters, No. 1529 29th street N. W., Washington city, D. C.

J. J. WATERS,
Att'y for Mrs. Magruder, Pl'ff & Appellant.

June 6th, 1899.

DISTRICT OF COLUMBIA, *To wit:*

Personally appeared before the subscriber, clerk of the supreme court of the District of Columbia, Joseph J. Waters, who, being duly sworn, deposes and says that he served the duplicate of the above notice by delivering it to Mr. Harvey T. Winfield, who is en-

gaged in the office of Messrs. Ralston & Siddons, who are attorneys for the defendants in the before named suit, to give to said Mr. Ralston, on said 6th June, 1899, and that affiant is attorney for appellant in said suit.

JOSEPH J. WATERS.

Subscribed and sworn to before me this 9th day of June, A. D. 1899.

J. R. YOUNG, *Clerk*,
By ALF. G. BUHRMAN, *Ass't Clk.*

Bond for Appeal to Court of Appeals.

Filed June 9, 1899.

In the Supreme Court of the District of Columbia.

ELEANOR A. H. MAGRUDER, Plaintiff,
vs.
GEORGE A. ARMES and Others, Defendants. } At Law. No. 43039.

Know all men by these presents that we, said Eleanor A. H. Magruder, of the District of Columbia, as principal, and Annie P. Waters, of the same District, as surety, are held and firmly bound unto the above-named George A. Armes, Jackson H. Ralston,
12 Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson in the full sum of one hundred no $\frac{}{100}$ dollars, to be paid to the said George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, their executors, administrators, successors, or assigns; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, administrators, successors, and assigns, firmly by these presents.

Sealed with our seals and dated this 31st day of May, in the year of our Lord one thousand eight hundred and ninety-nine.

Whereas the above-named Eleanor A. H. Magruder, plaintiff, has prosecuted an appeal to the Court of Appeals of the District of Columbia to reverse the judgment rendered in the above suit by the said supreme court of the District of Columbia:

Now, therefore, the condition of this obligation is such that if the above-named Eleanor A. H. Magruder, appellant, shall prosecute her said appeal to effect and answer all costs if she shall fail to make good her plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

ELEANOR A. H. MAGRUDER. [SEAL.]

Signed, sealed, and delivered in presence of—
OLIVER P. JOHNSON, as to—

ANNIE P. WATERS. [SEAL.]

Approved the 9th day of June, 1899.

E. F. BINGHAM,
C. J., Justice, S. C. D. C.

(Endorsed.)

DISTRICT OF COLUMBIA, *To wit:*

13 Personally appeared before the subscriber, a justice of the peace in and for said District, Annie P. Waters, who, being duly sworn, deposes and says she is worth, over all legal debts and exemptions, over one hundred dollars in value in unencumbered real estate situated in said District, and that she has signed the annexed bond, and is an unmarried woman.

ANNIE P. WATERS.

Subscribed and sworn to before me this 31st day of May, 1899.
[SEAL.] OLIVER P. JOHNSON, *J. P.*

14 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia,* } *ss:*

I, John R. Young, clerk of the supreme court of the District of Columbia, do hereby certify that the foregoing pages, numbered from 1 to 13, inclusive, contain a true and correct transcript of the record, as prescribed by rule 5 of the Court of Appeals of the District of Columbia, in cause No. 43039, at law, wherein Eleanor A. H. Magruder is plaintiff and George A. Armes *et al.* are defendants, as the same remain- upon the files and of record in said court.

Seal Supreme Court of the District of Columbia.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 24 day of June, A. D. 1899.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 917. Eleanor A. H. Magruder, appellant, *vs.* George A. Armes *et al.* Court of Appeals, District of Columbia. Filed Jun- 30, 1899. Robert Willett, clerk.

9 FRIDAY, *October 13th, A. D.* 1899.

ELEANOR A. H. MAGRUDER, Appellant,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, FREDERICK L. SIDDONS, HARVEY T. WINFIELD, and ALBERT A. WILSON. } No. 917.

The argument in the above-entitled cause was commenced by Mr. J. J. Waters, attorney for the appellant, and was continued by Mr. J. H. Ralston, attorney for the appellees, and was concluded by Mr. J. J. Waters, attorney for the appellant.

10 ELEANOR A. H. MAGRUDER, Appellant,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, FREDERICK L. SIDDONS, HARVEY T. WINFIELD, and ALBERT A. WILSON. } No. 917.

Opinion.

Mr. Justice SHEPARD delivered the opinion of the court:

1. This is an action for damages begun in the supreme court of the District of Columbia, on May 8, 1899, by Eleanor A. H. Magruder against George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson. Defendants' demurrer to the declaration was sustained and judgment thereon entered, from which the plaintiff has appealed.

The substantial allegations of the declaration are: (1) That George A. Armes, as plaintiff in a suit at law in the supreme court of the District, with the assistance of Harvey T. Winfield, who appeared as attorney of record for plaintiff in said case, and of Jackson H. Ralston and Frederick L. Siddons, as counsel, had issued a writ of *fieri facias* in said case against plaintiff and George C. W. Magruder, her husband, under date of February 19, 1896; (2) that said writ was directed to Albert A. Wilson, marshal of the District of Columbia, and by him levied upon the interests of both plaintiff and her husband in and to a valuable lot designated by square and lot number; (3) said lot was the sole and separate estate at law in fee of said plaintiff, she being a married woman residing in said District; (4) said lot was of the value of $1,800, and after being so seized was held by the marshal until plaintiff, to prevent the sale of said lot, was compelled to pay the demands made in said writ; (5) said writ commanded the marshal of the goods, chattels, lands, and tenements of this plaintiff, and George C. W. Magruder, surety, to cause to be made $6.25, with interest from February 13, 1896, and $22.70 costs and charges; (6) that said writ was illegal and void on its face "because it was not made leviable only out of the sole and separate estate of said plaintiff, and made no allowance of any of the exemptions from execution allowed by law; furthermore, said writ called for interest when the judgment and verdict in the case gave none, and charged in the costs twenty dollars for said Armes and his attorney which are not allowed by law;" (7) "said

writ was issued and acted under for the wilful purpose of oppressing this plaintiff and of compelling this plaintiff to pay illegal charges and to enforce a judgment against plaintiff in favor of said Armes in said law suit No. 39058, which this plaintiff alleges was unauthorized by law and beyond the jurisdiction of said court to render, and void;" (8) "said judgment was rendered upon an alleged charge by law of $1.25 a day to said Armes for attending said court as a witness in a certain suit at law No. 30689 for this plaintiff, but was without law or merit;" (9) the judgment in No. 39058, on which the writ issued, is set out in full and shows the recovery by Armes against Eleanor A. H. Magruder of the sum of $6.25, together with the costs of suit; (10) that "said judgment is a common-law judgment on an alleged implied contract against her, she being a married woman then as now, and said judgment has no restriction in recovery or for execution to her sole and separate estate, and was beyond the jurisdiction of said court to render, and was and is legally void, and said judgment could not be entered for a larger fee to the plaintiff therein as a witness than the law authorized in such a case;" (11) the said judgment is also declared void as to George C. W. Magruder named as surety and joined with her therein, he not being a party to the cause, and having judgment entered against him because he had signed an undertaking with plaintiff, before the justice of the peace before whom said cause was originally tried, to secure an appeal to the supreme court of the District, although he had not been served with process; (12) that plaintiff and husband had a right to appeal from said judgment within twenty days, during which time no execution could issue; but that defendants, intending to oppress the plaintiff, sued out the said execution within six days, and eleven days thereafter levied the same as aforesaid; (13) that unable to terrify the plaintiff and compel payment by the levy, the defendants advertised the property for sale and endeavored also to sell the right of plaintiff's husband therein as tenant by the curtesy; (14) that on April 23, 1896, plaintiff moved to quash said writ, levy, etc., but said motion was overruled on May 6, 1896, in the absence of plaintiff's counsel; (15) that on May 8, 1896, plaintiff and her husband entered an appeal from the order overruling said motion to quash to the Court of Appeals; but the defendants persevered in their attempt to sell said property as advertised on May 9, 1896, and would not postpone the same to give plaintiff time to perfect said appeal; (16) said marshal, acting for all the defendants, demanded the illegal and excessive sum of $89.94 as costs and charges, including therein a charge of $50 for advertising, when the same was not worth more than $17.05; and to prevent the sacrifice of her property plaintiff was compelled to pay said sum and stop the sale; (17) that afterwards the defendants prevented her from perfecting said appeal by causing the said supreme court to refuse to approve her appeal bond; (18) the damages sustained are made to sound in the sum of $6,000.

2. The declaration presents what seems to be an extraordinary

case both in respect of subject-matter and the joinder of parties defendant.

Passing over the many questions raised on the argument, there is one that lies at the foundation of plaintiff's case. Is the judgment of the supreme court, rendered on appeal from the justice's court, void for the want of jurisdiction?

In answering this we cannot enquire into the right of a witness to sue for his fees, instead of looking to their collection as part of the general costs of the case wherein he had been summoned as a witness, or whether he had actually claimed and was awarded more than the *per diem* fixed by the statute generally.

The justice of the peace had jurisdiction of the class of actions to which this suit belonged, and the plaintiff was regularly summoned as the defendant therein. The supreme court had jurisdiction of the appeal from the justice's court that was prosecuted by the plaintiff herein.

Whether, then, the plaintiff in that case, Armes, ought to have recovered a judgment against this plaintiff on said appeal raises a question of error in the proceedings that does not go to the jurisdiction. Assuming the existence of error in that judgment, it could not be declared void.

3. The objection to the judgment upon which the greatest stress has been laid is that it is null and void because rendered as a general personal judgment against a married woman, with no limitation of execution to her sole and separate estate under the married woman's act. R. S. D. C., secs. 727–730.

In Magruder *v.* Belt, 7 App. D. C., 303, 309, it was said: "If the contract be joint, or joint and several, and the parties be sued jointly, the recovery must be general against the parties, but as to the married woman defendant, the award of execution must be against her sole and separate estate acquired and held under the statute, at the date of the judgment, if real estate, or at the
11 time of the delivery of the execution to the marshal, if personal property."

In Foertsch *v.* Germuiller, 9 App. D. C., 351, 359, a married woman appealed from a general personal judgment rendered against her as if she were an unmarried woman; and it was held that there should have been an "award of execution against her sole and separate estate so acquired and held under the statutes regulating the rights of married women." Citing R. S. D. C., secs. 727–730; Magruder *v.* Belt, 7 App. D. C., 303; Bank *v.* Partee, 99 U. S., 325, 330.

As this omission had not been called to the attention of the trial court either by the motion in arrest, or otherwise, the judgment was not reversed, but modified in the necessary particular. In doing so, it was said: "We cannot agree that the judgment was void for want of the formal limitation in the award of execution, or that, presented in the way it has been, the error is sufficient to require a reversal with costs."

It was hardly necessary in that case to say that the judgment was not void for the reason given. Examining the question again, in

the light of the argument and authorities presented on behalf of the appellant, our conclusion is that a judgment against a married woman cannot be attacked collaterally and declared void on the ground stated. Bank *v.* Partee, 99 U. S., 325, cited in Foertsch *v.* Germuiller, is relied on by appellant, in support of the contention.

In that case, it is true that a judgment rendered by a court of Mississippi, against a married woman, was held void in a collateral proceeding, because neither the pleadings nor the judgment showed that defendant had a separate estate, and that the debt claimed was a charge upon it, or ought to be paid out of it.

We cannot regard that case as controlling, because it was founded on a statute of the State of Mississippi, different from ours, and the Supreme Court of the United States simply followed, in accordance with a general rule of decision, the interpretation that had been given that statute by the supreme court of Mississippi in repeated decisions.

4. The judgment upon which the writ of execution issued, not being void for want of jurisdiction in the court rendering it, all the other questions raised, in regard to the form and prematurity of the writ, the manner of levy and advertisement for sale, and the effect of plaintiff's payment of its demands, together with the relations of plaintiff's husband thereto, who is not a party to this suit, are unimportant and will therefore not be discussed or determined.

For the reasons given the judgment appealed from must be affirmed with costs; and it is so ordered.

Affirmed.

12 WEDNESDAY, *November 8th, A. D.* 1899.

ELEANOR A. H. MAGRUDER, Appellant,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson. } No. 917, October Term, 1899.

Appeal from the supreme court of the District of Columbia.

This cause came on to be heard on the transcript of record from the supreme court of the District of Columbia and was argued by counsel. On consideration whereof it is now here ordered and adjudged by this court that the judgment of the said supreme court in this cause be, and the same is hereby, affirmed with costs.

Per MR. JUSTICE SHEPARD.

November 8, 1899.

TUESDAY, *November 21st, A. D.* 1899.

ELEANOR A. H. MAGRUDER, Appellant,
vs.
GEORGE A. ARMES, JACKSON H. RALSTON, FREDERICK L. Siddons, Harvey T. Winfield, and Albert A. Wilson. } No. 917.

On motion of Mr. J. J. Waters, attorney for the appellant in the above-entitled cause, it is ordered by the court that a writ of error

to remove said cause to the Supreme Court of the United States be, and the same is hereby, allowed on giving bond in the sum of three hundred dollars.

13 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the Court of Appeals of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Court of Appeals, before you or some of you, between Eleanor A. H. Magruder, appellant, and George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, appellees, a manifest error hath happened, to the great damage of the said appellant, as by her complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within 30 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 21st day of November, in the year of our Lord one thousand eight hundred and ninety-nine.

Seal Court of Appeals, District of Columbia.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

14 Know all men by these presents that we, Eleanor A. H. Magruder, of Tennallytown, District of Columbia, as principal, and Annie P. Waters, of Washington city, District aforesaid, as surety, are held and firmly bound unto George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, all of said District, in the full and just sum of three hundred dollars, to be paid to the said George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, obligees herein, or their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 27th day of November, in the year of our Lord one thousand eight hundred and ninety-nine.

Whereas lately, at a Court of Appeals of the District of Columbia, in a suit depending in said court between said Eleanor A. H. Magruder, as plaintiff and appellant, and said obligees, as defendants and appellees, a judgment was rendered against the said Eleanor A. H. Magruder for costs, with the affirmation of the judgment appealed from, and the said Eleanor A. H. Magruder having appealed therefrom to the Supreme Court of the United States, and having obtained a writ of error thereto and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, citing and admonishing them to be and appear at a Supreme Court of the United States to be holden at Washington within 30 days from the date thereof:

Now, the condition of the above obligation is such that if the said Eleanor A. H. Magruder, appellant as aforesaid, shall prosecute her said appeal or writ of error to effect and answer all damages and costs if she fail to make her plea good, then the above obligation to be void; else to remain in full force and virtue.

ELEANOR A. H. MAGRUDER. [SEAL.]
ANNIE P. WATERS. [SEAL.]

Sealed and delivered in the presence of—
(Signed) H. E. WATERS.

Approved by—
R. H. ALVEY,
Chief Justice.

Surety satisfactory.

RALSTON AND SIDDONS.

[Endorsed:] No. 917. Eleanor A. H. Magruder *vs.* Geo. A. Armes *et al.* Bond of Mrs. Magruder on writ of error to U. S. S. Court. Court of Appeals, District of Columbia. Filed Dec. 1, 1899. Robert Willett, clerk.

15 UNITED STATES OF AMERICA, *ss:*

To George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error filed in the clerk's office of the Court of Appeals of the District of Columbia, wherein Eleanor A. H. Magruder is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Richard H. Alvey, Chief Justice of the Court of Appeals of the District of Columbia, this 1st day of Decem-

ber, in the year of our Lord one thousand eight hundred and ninety-nine.

R. H. ALVEY,
Chief Justice of the Court of Appeals of the District of Columbia.

Service accepted Dec. 5, 1899.

J. H. RALSTON.
HARVEY T. WINFIELD.
F. L. SIDDONS.

Service accepted.

RALSTON & SIDDONS,
Def'ts' Att'ys.

[Endorsed:] Court of Appeals, District of Columbia. Filed Dec. 6, 1899. Robert Willett, clerk.

16 Court of Appeals of the District of Columbia.

I, Robert Willett, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages, numbered from 1 to 15, inclusive, contains a full, true, and correct copy of the transcript of record and proceedings of said Court of Appeals in the case of Eleanor A. H. Magruder, appellant, *vs.* George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson, No. 917, October term, 1899, as the same remains upon the files and records of said Court of Appeals.

Seal Court of Appeals, District of Columbia.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the city of Washington, this 9th day of December, A. D. 1899.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No., 17,590. District of Columbia Court of Appeals. Term No., 171. Eleanor A. H. Magruder, plaintiff in error, *vs.* George A. Armes, Jackson H. Ralston, Frederick L. Siddons, Harvey T. Winfield, and Albert A. Wilson. Filed December 20th, 1899.